

Capital Punishment collection

S1496

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Describing Archives: A Content Standard

Indiana State Library
Rare Books and Manuscripts
140 North Senate Avenue
Indianapolis, Indiana 46204
317-232-3671

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Summary Information

Repository	Indiana State Library
Title	Capital Punishment collection
Date	circa 1901-1960
Extent	0.02 Cubic feet 2 folders
Language	English
Text [Folder]	S1496-2
Text [Folder]	S1496-1

Preferred Citation

Capital Punishment Collection, Rare Books and Manuscripts, Indiana State Library

Historical Note

Capital Punishment

"Capital punishment continues to be used in the United States despite controversy over its merits and over its effectiveness as a deterrent to serious crime. A sentence of death may be carried out by one of five lawful means: electrocution, hanging, lethal injection, gas chamber, and firing squad. As of 2003, 38 states employed capital punishment as a sentence; 12 states—Alaska, Hawaii, Iowa, Maine, Massachusetts, Michigan, Minnesota, North Dakota, Rhode Island, Vermont, West Virginia, and Wisconsin—and the District of Columbia did not. The first known infliction of the death penalty in the American colonies occurred in Jamestown Colony in 1608. During the period of the Revolutionary War, capital punishment apparently was widely accepted—162 documented executions took place in the eighteenth century. At the end of the war, 11 colonies wrote new constitutions, and, although nine of them did not allow Cruel and Unusual Punishment, all authorized capital punishment. In 1790, the First Congress enacted legislation that implemented capital punishment for the crimes of Robbery, rape, murder, and forgery of public Securities. The nineteenth century saw a dramatic increase in the use of capital punishment with 1,391 documented executions. The death penalty continued as an acceptable practice in the United States for some time. In 1967, a national Moratorium was placed on capital punishment while the U.S. Supreme Court considered its constitutionality. In 1972, it appeared that the Court had put an end to the death penalty in the case of *Furman v. Georgia*, 408 U.S. 238, 92 S. Ct. 2726, 33 L. Ed 2d 346, declaring certain capital punishment laws to be unconstitutionally cruel and unusual because juries were applying them arbitrarily and capriciously. It seemed as if *Furman* would mark the passing into history of capital punishment in the United States. By 1976, Georgia, Florida, and Texas had drafted new death penalty laws, however, and the U.S. Supreme Court upheld them. Of the nine justices, only two, William J. Brennan Jr. and Thurgood Marshall, persisted in the belief that capital punishment is unconstitutional per se. Capital punishment had survived, and so had the controversies surrounding it. Although the U.S. Supreme Court has held that the Constitution permits the use of capital punishment, decisions on this issue have divided the Court and have done little to convince opponents of the death penalty that it is fair. Critics have argued that the death penalty is a form of cruel and unusual punishment, that it is applied in a racially discriminatory manner, that it lacks a deterrent effect, and that it is wrong."

From the Indiana Public Defender Council

"In Indiana, the death penalty is available only for the crime of murder, and is available for murder only if the prosecution can prove the existence of at least one of 16 "aggravating circumstances" identified by the Indiana General Assembly. These circumstances are set out in the state's death penalty statute, at IC 35-50-2-9. In order to seek the death penalty, the prosecutor must allege the existence of at least one of the aggravating circumstances set out in the statute.

If the case proceeds to trial, and the defendant is convicted of murder, the trial proceeds to a second phase to determine the appropriate penalty. The jury hears evidence regarding the existence of the alleged aggravating circumstance(s) and any mitigating circumstances – facts which would lead them to recommend a lesser sentence. They are required to return a special verdict form indicating whether they unanimously find the existence of each charged statutory aggravating circumstance beyond a reasonable

doubt. They are not allowed to recommend that the defendant be sentenced to death or life without parole unless they unanimously find that the state has proved the existence of at least one alleged aggravating circumstance beyond a reasonable doubt, and also find that the aggravating circumstance(s) outweigh the mitigating circumstances. If the jury unanimously agrees on their sentencing "recommendation," the trial court must follow it. If they cannot agree on the sentence, but unanimously agree that an aggravating circumstance exists, the Court is free to sentence the defendant to either a term of years, life without parole, or death.

If a death sentence is imposed, it may be subjected to three levels of appellate review: Direct appeal in the Indiana Supreme Court, focusing on legal issues; state post-conviction review, which can also look at factual issues such as whether trial counsel competently represented the defendant, whether evidence was suppressed, and whether any witnesses have recanted their testimony; and federal habeas corpus review, which focuses on federal constitutional issues. A prisoner may also request clemency from the Governor. The first level of review – direct appeal – is mandatory, but the prisoner may choose to forego the others.

If a prisoner is executed, the State of Indiana will strap him or her to a gurney, insert an IV line, and inject into that line a series of three chemicals: (1) sodium thiopental, an ultra-short-acting barbiturate, to render him or her unconscious; (2) pancuronium bromide, to paralyze voluntary and reflex muscles; and (3) potassium chloride, to stop his or her heart. Defense attorneys and others have raised concerns that the dosage of sodium thiopental may be inadequate or may wear off too quickly, and that the pancuronium bromide, which renders the prisoner unable to move or speak, may mask signs of consciousness and excruciating pain. The U.S. Supreme Court recently reviewed Kentucky's use of this protocol. *Baze v. Rees*, 128 S.Ct. 1520 (2008). In an opinion with four concurrences and a dissent, the plurality acknowledged that if the first drug were not administered in an adequate quantity, a prisoner could suffer excruciating pain. However, the Court held that absent a showing of substantial risk that the first drug would not be administered in an adequate quantity, the protocol does not constitute cruel and unusual punishment. More recently, states have had difficulty obtaining sodium pentothal for use in lethal injections, and some have changed the drugs that they use. It remains to be seen what Indiana will do if another execution is scheduled."

"Capital punishment". Sept. 10, 2013. <http://legal-dictionary.thefreedictionary.com>

"Death penalty facts". Sept. 10, 2013. <http://www.in.gov/ipdc/general/indianadpfactsheet.pdf>

Scope and Contents

This collection includes texts from compilers at the Indiana State library, Gov. Hanly, the League to Abolish Capital Punishment, the American League to Abolish Capital Punishment, Inc., the National Committee on Prisons, the Annals of the American Academy of Political and Social Sciences, and compilations of Indiana laws ranging from circa 1901 to 1960 regarding capital punishment laws, statistics and opinions.

Arrangement

This collection is arranged by subject.

Administrative Information

Publication Information

Indiana State Library

Conditions Governing Access

This collection is open for research.

Conditions Governing Use

Legal title, copyright, and literary rights reside with Rare Books and Manuscripts, Indiana State Library, Indianapolis, IN. All requests to publish or quote from manuscripts must be submitted to Rare Books and Manuscripts.

Custodial History

This collection was received by Rare Books and Manuscripts as a donation.

Accruals

No further additions are expected.

Processing Information

Collection processing completed 2013/09/10 by Edythe Huffman. EAD finding aid created 2013/09/10 by Edythe Huffman.

Controlled Access Headings

Corporate Name(s)

- League to Abolish Capital Punishment (U.S.).
- National Committee on Prisons and Prison Labor (U.S.).

Geographic Name(s)

- Indiana

Personal Name(s)

- Calvert, E. Roy
- Hanly, J. Frank
- Lawes, Lewis E.

Subject(s)

- Capital punishment
- Rare Books and Manuscripts

Collection Inventory

Indiana State Prison statistics documents, 1901-1934 (5 items)

Lewis E. Lawes "A Brief History of Capital Punishment," "Is the Death Penalty Necessary?," "The Death Penalty at Sing Sing" articles, 1929

E. Roy Calvert "Murder and the Death Penalty" reprinted article, circa 1929

"Handbook on Capital Punishment" pamphlet, 1916

Annals of the American Academy of Political and Social Science. Philadelphia: Published by A.L. Hummel for the American Academy of Political and Social Science., 1952.

Governor J. Frank Hanly death penalty address, 1907

Burns Indiana Statutes Annotated Capital Punishment regulations, undated

"Death Penalty in Indiana" historical document, undated

United States death penalty status' newspaper clippings, undated